

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Vernon Neal Powers,

Petitioner,

Civil No. 05-2089 (RHK/RLE)

v.

ORDER

Lynn Dingle, Warden, MCF Oak Park
Heights,

Respondent.

Following the filing of Chief Magistrate Judge Raymond L. Erickson's March 3, 2006 Report and Recommendation, and in connection with the briefing by the parties of Petitioner's Objections thereto, the "Affidavit of Bruce Rivers" (attached) was submitted to the Court. That Affidavit asserts that it is Affiant's "understanding that [Petitioner] exceeded the deadline on the Habeas Corpus due to the incorrect information that [an attorney hired by Affiant to 'assist in the research, drafting, and filing of the Habeas Corpus'] gave him." Because this Affidavit was not before Judge Erickson at the time he issued the Report and Recommendation, the matter is **REMANDED** to Judge Erickson for the limited purpose of determining the impact of the subject Affidavit, if any, on the March 3, 2006, Report and Recommendation.

Dated: May 30, 2006

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge